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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/722,634	11/28/2000	Ramesh Mantha	2664.20	4602

27160 7590 07/31/2007

PATENT ADMINISTRATOR  
KATTEN MUCHIN ROSENMAN LLP  
1025 THOMAS JEFFERSON STREET, N.W.  
EAST LOBBY: SUITE 700  
WASHINGTON, DC 20007-5201

EXAMINER
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DUONG, DUC T

ART UNIT	PAPER NUMBER
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2616

MAIL DATE	DELIVERY MODE
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07/31/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/722,634

Applicant(s)

MANTHA, RAMESH

Examiner

Duc T. Duong

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2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5, 11-16 and 19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19 is/are allowed.
- 6) ☒ Claim(s) 1-5, 11-14 and 16 is/are rejected.
- 7) ☒ Claim(s) 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Response to Amendment***

1. The indicated allowability of claims 1-5 and 11-16 are withdrawn in view of the newly discovered reference(s) to Gaiani et al (US Patent 5,539,728). Rejections based on the newly cited reference(s) follow.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4, 11-14, and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Gaiani et al (US Patent 5,539,728).

Regarding to claims 1-4, Gaiani discloses a system for allocating a power budget between at least two different communication channels, one of which comprises a voice channel and the other one of which comprises a data channel (fig. 1 col. 3 lines 41-47), comprising at least two receiving-stations  $M_1$ - $M_N$ , which between them are configured to receive all of the at least two different communication channels (col. 3 lines 41-47); and, a transmitting-station BS for transmitting each of the channels to at least one of the receiving-stations using a portion of the power budget (col. 3 lines 41-47), the portions being allocated by said transmitting-station such that the power budget is substantially consumed (col. 3 lines 60-62), wherein said transmitting-station is configured such that the allocation of power to the voice channel for a subsequent time period (every cycle)

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is based on the actual power consumed by the voice channel for a known time period (preceding interval), and wherein the known time period comprises a current time period (current cycle) and the subsequent time period immediately follows the current time period (col. 4 lines 14-20); and wherein each of the time periods is from about one millisecond to about forty millisecond (col. 4 lines 5-11).

Regarding to claims 11-14, Gaiani discloses the each time period is about ten milliseconds to a hundred milliseconds (col. 4 lines 5-11).

Regarding to claim 16, Gaiani discloses the remainder of the power budget that is not allocated to the voice channel is allocated by said transmitting station to another communication channel (col. 6 lines 23-40).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gaiani.

Regarding to claim 5, Gaiani discloses all the limitations with respect to claim 1, except for the transmitting station is a subscriber station and the receiving station is base station. However, to arrange such station for receiving and transmitting would have been obvious to a person of ordinary skill in the art, at the time of the invention, since arrangement is well known in the art.

***Allowable Subject Matter***

6. Claim 15 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claim 16 is allowed.

The following is a statement of reasons for the indication of allowable subject matter: The prior art of record fails to teach or make obvious the steps of or means **“for the future time period, allocating a remaining amount of power to a remainder of the channels, the remaining amount being an amount that was unallocated to the at least one voice channel”**, when such allocation is considered within the specific combination of steps recited in the method of claim 16.

***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc T. Duong whose telephone number is 571-272-3122. The examiner can normally be reached on M-F (9:00 AM-6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wing Chan can be reached on 571-272-7493. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DD  
DD

  
7/25/07  
WING CHAN  
SUPERVISORY PATENT EXAMINER